

**RULES
OF
TENNESSEE DEPARTMENT OF HUMAN SERVICES
FAMILY ASSISTANCE DIVISION**

**CHAPTER 1240-1-49
FAMILIES FIRST EMPLOYMENT AND TRAINING**

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1240-1-49-.01 FAMILIES FIRST EMPLOYMENT AND TRAINING.

- (1) The Department of Human Services administers the Families First Employment and Training program directly and through contractual arrangements with other agencies to provide or arrange for employment, education, and training for employment for Families First recipients. All Families First recipients must participate in the Families First Employment and Training unless they are exempt from this requirement.

Authority: T.C.A. §§4-5-201 et seq., 71-1-105, Public Acts of 1996, Chapter 950, and 45 CFR 250.1.
Administrative History: Original rule filed December 2, 1996; effective February 15, 1997.

1240-1-49-.02 EXEMPTION DETERMINATION. The following persons are exempt from participation in the Families First Employment and Training but may volunteer to participate by waiving their exemption status:

- (1) A child who is under 16 years of age.
- (2) A child up to age 19 who is attending school full-time.
- (3) An individual who is disabled.
 - (a) An individual who has been approved for Social Security or SSI on the basis of his/her disability, Veterans benefits on the basis of his/her 100% disability, or Black Lung benefits based on his/her disability, he/she is exempt from participation in Families First Employment and Training.
- (4) An individual who has been determined to be incapacitated.
 - (a) Incapacity is deemed to exist when one parent has a physical or mental defect, illness or impairment. The defect, illness or impairment must be:
 1. Supported by competent medical testimony;
 2. Of such a debilitating nature as to reduce substantially, or eliminate the parent's ability to support or care for the child(ren); and
 3. Expected to last for a period of at least thirty (30) days.
 - (b) Incapacity shall be determined as follows:

(Rule 1240-1-49-.02, continued)

1. Current receipt by the parent of RSDI or SSI benefits based upon disability or blindness is acceptable proof of incapacity for Families First purposes. However, eligibility for RSDI or SSI benefits is not necessary to prove incapacity. Incapacity for Families First purposes does not require that a defect, illness, or impairment be as severe, or last as long, as required for establishing disability or blindness for RSDI or SSI purposes.
 2. Obvious incapacity can be approved in the county office for a period of up to twelve (12) months;
 3. Receipt by the incapacitated person of VA 100% disability benefits based on his/her disability;
 4. Receipt by the incapacitated person of Black Lung benefits based on his/her own condition; or
 5. All other claims of incapacity must be forwarded to the Medical Evaluation Unit (MEU).
- (c) Review/Redetermination of Incapacity-Six (6) month Review/Redetermination. The RSDI/SSI disability status must be reverified at each six month case review. When the parent's RSDI/SSI payment is terminated and the parent claims continued incapacity, it will be necessary to establish incapacity through the Medical Evaluation Unit (MEU). Terminated RSDI/SSI individuals may continue to be exempt as incapacitated while the necessary information is being secured and submitted to the MEU. If the client fails to cooperate without good cause or refuses to cooperate, the exemption on the basis of incapacity ends.
- (d) Period of Incapacity for Families First.
1. The period of incapacity established by the Medical Evaluation Unit (MEU) is subsequent to the period of incapacity approved by the county. Verification of continued incapacity must be made at the end of the MEU approval period if continued incapacity is claimed.
 2. On applications/reapplications denied by the MEU but approved on the local level, the MEU's decision of nonapproval is effective at the end of the approval period made by the county. The exemption will then be terminated by the county office without being resubmitted to the MEU unless additional new medical information is available.
 3. For an active incapacity exemption denied by the MEU, the exemption will be terminated as soon as adverse notification procedures permit.
 4. If there is any indication the client is no longer incapacitated, the complete medical file will be resubmitted to MEU with current medical-social information including the facts which indicate that incapacity no longer exists.
- (5) An individual who is age 60 or older.
- (6) An individual who is needed in the home to care for a family member who is ill or incapacitated as determined by a physician or a licensed or certified psychologist, and no other appropriate member of the household is available to provide the needed care.
- (7) An individual who is the caretaker of a child under age 16 weeks.
- (8) An individual who is a full-time volunteer serving in the VISTA program.

(Rule 1240-1-49-.02, continued)

Authority: T.C.A. §§4-5-201 et seq., 71-1-105, 71-3-154(h)(3)(A)-(G), 42 USC §1315(a), Public Acts of 1996, Chapter 950, 45 CFR 233.90(c)(iv), and 45 CFR 250.30, §1115 of the Social Security Act. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997. Amendment filed July 5, 2002; effective September 18, 2002.

1240-1-49-.03 SPECIAL FAMILIES FIRST EMPLOYMENT AND TRAINING REQUIREMENTS.

- (1) An individual, unless otherwise exempt, whose youngest child is at least 16 weeks of age will be required to participate in work or work-related activities for 40 hours per week as set forth in his/her Personal Responsibility Plan (PRP). At least 20 hours must be spent working; the remaining 20 hours must be spent in education, training, or in other employment search activities. A self-employed individual must have the equivalent of 40 hours per week of earnings at the minimum wage to be considered to meet the 40 hour requirement. However, a self-employed individual who is a work program participant and who is enrolled in a micro-lending program providing entrepreneurship training, technical assistance, and peer support will be considered as participating in a work component if the individual's income divided by the minimum wage equals at least 20 hours per week.
- (2) All parents, caretakers, and teenagers not in school, unless otherwise exempt, must complete a work plan as part of his/her PRP, designed to move the individual into a full-time job at an income sufficient to make the family self-supporting in the shortest time possible. Each person's work plan will be developed based upon their personal work history and education. Work plans will specify an employment objective with a specified timeframe. Work plans will include benchmarks, specific expectations regarding attendance and/or participation in an activity, identify available support services, and will include notice of penalties for failure to comply. Work and training components will include:
 - (a) Employment. An individual who spends at least 20 hours per week working and an additional 20 hours in educational, training, or work search activities is considered to meet the Families First Employment and Training requirement.
 - (b) Life Skills Training for individuals who have not previously had such training, and individuals with no recent work history. Participants in Life Skills Training must attend classes at a 90% rate to avoid sanctions and must make satisfactory progress as determined by the teacher and complete the program within the established time frame specified in the work plan. An individual who does not make satisfactory progress or is unable to complete the component within the established time frame will be reassessed to determine whether he/she should be placed in a more appropriate component.
 - (c) Job Search will be required for individuals with a High School Diploma or GED who are employed or employed less than full-time, and individuals who are participating in an approved educational or job training activity.
 1. Individuals assigned to Job Search must make a specified number of employer contacts and document the results of each contact.
 2. An individual must not refuse a bona fide offer of employment without good cause.
 3. Initial Job Search will last 8 weeks. If the individual has not found a job, he/she will be assigned to a job readiness class and an organized job club activity, at the end of which he/she will be assigned 8 additional weeks of Job Search with a job developer guiding the search activities. If no job is then obtained, the individual will be assigned to 20 hours of community work experience for a period of 6 months, in conjunction with Job Search.

(Rule 1240-1-49-.03, continued)

- (d) Adult Education and GED Training will be required for individuals who have no high school diploma or GED, or who have no recent work history that establishes an ability to earn a suitable wage.
 - 1. Such individuals must participate in adult education/GED training for 20 hours per week in conjunction with Life Skills training, employment, or Job Search.
 - (i) Participants must attend at least 90% of classes, must make satisfactory progress as determined by the teacher, and must complete the program during an established timeframe.
 - (ii) The individual must work or continue Job Search activities while engaged in training unless temporarily exempt from Job Search because he/she tests at less than 9th grade reading and math level on the adult basic education tests (TABE or ABLE).
 - (I) This exemption from Job Search will remain in effect so long as the participant is making satisfactory progress in the prescribed education program and until he/she tests at the 9th grade level, or is satisfactorily cooperating with Vocational Rehabilitation in working to overcome special work impediments.
 - 2. An individual who tests at less than the 9th grade level may choose to work full-time. In such instance, the individual must be informed that this decision means that the AG will not be exempt from the time limit or from work related sanctions.
- (e) An individual whose ability to achieve is severely limited because of a physical or mental disability or other learning limitation will be referred to Vocational Rehabilitation for assessment to determine if he/she should be exempt from the work or adult education/GED requirement.
- (f) Job Skills Training related directly to employment may be available to an individual who has a high school diploma or GED for whom training would enhance his/her ability to become self-sufficient, and who could earn at least 20% more income with such skills training, and who agrees to work for 20 hours per week while in training. Availability of such training is dependent upon the state's budgeted resources.
- (g) Work Experience activities, as approved by the Department.
- (h) On-the-Job Training.
- (i) Community Service programs.
- (j) Vocational educational training not to exceed twelve (12) months for an individual.
- (k) Satisfactory attendance at secondary school, in the case of a recipient who:
 - 1. has not completed secondary school; and
 - 2. is a dependent child or a head of a household who is nineteen (19) years of age or younger.

(Rule 1240-1-49-.03, continued)

- (3) An individual who is engaged in self-initiated training must also work 20 hours a week, or if participating in post-secondary self-initiated training, must also work enough hours so that his/her combined education and training totals 40 hours per week.
 - (a) Such self-initiated training will be permitted to continue on a case by case basis where it is determined that the training will enhance the individual's ability to obtain unsubsidized employment.
 - (b) Such self-initiated training must be included in the Personal Responsibility Plan as an approved activity, and it must meet state accreditation, demand occupation, quality and placement standards. Self-initiated training will only be approved when:
 - 1. the activity is conducted on a full-time basis as defined by the institution;
 - 2. the individual maintains a grade point average (GPA) of at least 2.0 or the equivalent standard at state technology centers, except that an individual falling below a 2.0 GPA shall have one academic term to regain the required average;
 - 3. the individual is making satisfactory progress; and
 - 4. the individual concurrently engages in paid employment, including work study and the recipient's combined participation in education or training and employment averages at least 40 hours per week.
- (4) An unmarried minor parent whose youngest child in his/her care is at least 16 weeks of age, who has not completed high school or its equivalent must, as a condition of eligibility unless otherwise exempt, participate in educational activities directed toward the attainment of a high school diploma or its equivalent, or must participate in an alternative educational or training program that has been approved by the state. The unmarried minor parent who fails to comply with this requirement is him/herself ineligible to be included in the assistance group, but the children of such an individual remain eligible for Families First Benefits. A protective payee will be named if possible.
- (5) A married minor parent, whether eligible as a dependent child or as the caretaker of an eligible child, must attend school.
 - (a) Failure to comply with this requirement will result in a 20 percent reduction in the AG's assistance payment. A sanctioned AG will continue to be eligible for Medicaid/TennCare.

Authority: T.C.A. §§4-5-201 et seq., 71-1-105, Public Acts of 1996, Chapter 950, and 45 CFR 250.30 through 32; 45 CFR 234.60, §1115 of the Social Security Act. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997.

1240-1-49-.04 FAILURE TO COMPLY, CONCILIATION, GOOD CAUSE, AND SANCTIONS.

- (1) A mandatory Families First Employment and Training participant, i.e., one who does not meet one of the exemption criteria, who fails, without good cause, to participate in the program, will be sanctioned. When the non-exempt caretaker or other parent in a two-parent unit in the Families First assistance group fails or refuses to comply with employment, training, or other work preparation activities required and included in the caretaker's Personal Responsibility Plan, and he/she does not have good cause for failure to comply, the entire assistance group will be ineligible for cash assistance for the entire period of the sanction.
 - (a) Good Cause. The DHS worker is responsible for determining good cause any time she/he learns that a Families First Employment and Training participant has failed or refused to

(Rule 1240-1-49-.04, continued)

cooperate, failed to make satisfactory progress in the assigned component, refused to accept suitable employment, or quit employment. Good cause reasons include:

1. Recipient is not physically or mentally able to perform work required.
2. Lack of child care.
3. A serious household emergency.
4. Exempt.
5. Health or safety is at risk.
6. Medically documented illness of the individual or a household member whose care requires the participant's presence.
7. Is the caretaker of a child less than 16 weeks of age.
8. Is participating in Department-approved counseling program addressing barriers to self-sufficiency as a part of the Personal Responsibility Plan (PRP).
9. Lack of transportation.
10. Employment pays less than minimum wage.
11. Is actively seeking shelter from domestic violence or abuse, such as someone residing in a domestic violence or abuse shelter, or fleeing from immediate harm.
12. There are other factors which exist that are beyond the control of the participant.

If good cause does not exist, the appropriate sanction must be imposed.

- (b) Conciliation. Conciliation provides an opportunity for an individual to discuss non-compliance issues with specified staff prior to imposition of sanctions. Before a sanction is imposed, a notice will be sent to the individual scheduling a meeting to identify any barriers or problems that may be related to the noncompliance, and resolve them if possible. This conciliation conference may be face-to-face or over the phone. If good cause for noncompliance does not exist, the individual will be offered an opportunity and 10 calendar days to comply with the work requirement. Failure of the individual to respond to the scheduled appointment or to comply with the work requirement within the 10 calendar day period will result in the imposition of the sanction without conciliation.
- (c) Sanctions. Refusal or failure, without good cause, by a non-exempt caretaker (including either parent/caretaker in a two-parent AG) to engage in employment, training, or other work preparation activities required and included in the caretaker's Personal Responsibility Plan will result in the application of sanctions. If a Families First applicant who has been determined to be potentially mandatory states an intention to refuse to participate or cooperate, but who is otherwise eligible for Families First, the AG including the individual can still be approved; however, if, upon referral for participation, the individual fails to participate, the good cause/sanction process should be initiated.
 1. If the person to be sanctioned is the caretaker or in a two-parent AG, either parent, the entire assistance group is ineligible for the cash assistance payment, but Medicaid will continue for all AG members.

(Rule 1240-1-49-.04, continued)

2. If the person to be sanctioned is a child, he/she is removed from the AG. No amount is deducted from the income for the sanctioned person's needs.
 - (i) Appropriate earned income disregards are applied to any earnings. The remainder of the child's income is counted as available to the AG.
 - (ii) If the sanctioned child is the only child in the AG, assistance may be continued for the caretaker relative as long as other eligibility requirements are met.
- (d) Length of Sanctions. If a mandatory Families First Employment and Training participant fails without good cause to participate, sanctions are applied for the following time periods:
 1. For the first occurrence, until the sanctioned person complies or becomes exempt.
 2. For the second or any subsequent occurrence, until the sanctioned person complies, or for 3 months, whichever is longer.
 3. If a case with an individual serving a "first" sanction is terminated then re-applies and is found eligible, the individual is included in the AG until he/she again fails to comply. If such a subsequent failure occurs, a second (or third) failure to comply cannot be "cured" until the previous sanction period has passed.
 4. To "cure" a second or subsequent sanction, the individual must actually begin to comply with whatever he/she failed to do by participating in the original activity or another approved activity for a two week period, following any applicable penalty period that must be served. Agreeing to comply is not sufficient. When an individual meets the compliance criteria, benefits for the individual or group, whichever is appropriate, will begin effective the next calendar month.
 5. Once a notice has been mailed informing the individual that a sanction will take place, the first sanction begins. Subsequent compliance does not cancel the sanction, even though benefits may not have been lost because the sanction was "cured." A second failure cannot be "cured" until the 3 month penalty period has passed.

Authority: T.C.A. §§4-5-201 et seq., 4-5-202, 71-1-105, 71-1-105(12), 71-3-151 through 71-3-165, 71-3-154(a), (d)(1)(B) and (C), (g) and (h), 71-3-157(c)(1) and (f), 42 U.S.C.A. § 1315; Federal Waiver of July 26, 1996; Acts of 1996, Chapter 950, and 45 CFR 250.34 through 250.36, §1115 of the Social Security Act. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997. Amendment filed December 13, 2002; effective February 26, 2003. Amendment filed December 19, 2003; effective March 3, 2004.

1240-1-49-.05 APPEALS AND HEARINGS. The Department of Human Services is responsible for hearing appeals on any disputed matter relating to Families First eligibility and amount of grant and any Families First Employment and Training dispute including by not limited to referral to Families First Employment and Training services, effective participation in Families First Employment and Training, whether good cause for failure to participate exists, and imposition of sanctions. These appeals will be conducted according to appeal procedures set forth in Chapter 1240-5 and Title 4, Chapter 5, Part 3 of the Administrative Procedures Act and which shall not be more narrow than those in existence on August 31, 1996.

Authority: T.C.A. §§4-5-201 et seq., 71-1-105, Public Acts of 1996, Chapter 950, Title 4, Chapter 5, Part 3, and 45 CFR 205.10 and 250.36. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997.

1240-1-49-.06 VOLUNTARY QUIT.

- (1) When an applicant caretaker, including either parent in a two-parent AG, voluntarily quits a job without good cause within two months prior to the month of application, during the month of application, or during the application processing period, the application will be denied and the assistance group will not be eligible to reapply for a period of 3 months.
- (2) When a recipient caretaker, including either parent in a two-parent group, voluntarily quits a job without good cause, the assistance group will be terminated and will remain ineligible for 3 months.
- (3) Good cause includes, but is not limited to:
 - (a) complications of pregnancy which render the mother incapacitated, as certified by a physician;
 - (b) the individual was required to return to work prior to the end of the 16 weeks of leave following the birth of a child, as provided for in the Tennessee Family Medical Leave Act;
 - (c) existing child care became unavailable and substitute child care could not be arranged, for reasons beyond the caretaker's control;
 - (d) transportation was unavailable and the caretaker submits evidence that substitute transportation could not be arranged;
 - (e) the caretaker was needed in the home to care for an ill or disabled family member;
 - (f) the employer refused to allow time off for the caretaker to attend to a temporary family emergency;
 - (g) the job paid less than minimum wage based on the number of hours actually worked;
 - (h) there was discrimination by the employer based on age, race, sex, color, handicaps, religious beliefs, national origins, or political beliefs;
 - (i) work demands or conditions rendered continued employment unreasonable;
 - (j) the caretaker accepted other employment with at least comparable gross wages; or
 - (k) the employee left a job in connection with patterns of employment in which workers frequently move from one employer to another; or
 - (l) quit to enter an education or training program.
- (4) The assistance group may reapply following the end of the 3-month period of ineligibility. Eligibility may be re-established during the disqualification period if the caretaker (including either parent in a two-parent group) secures new employment which is comparable in gross wages to the job which was quit, or the person becomes exempt from the work plan requirements, or leaves the assistance group. An individual who has been sanctioned for quitting a job as head of one assistance group will carry the sanction with him/her to a new assistance group if he/she joins the new group as a parent/caretaker.
- (5) When Families First is terminated because the family is subject to the voluntary quit penalty DHS will notify the Department of Health. The Department of Health will immediately take appropriate action to monitor and protect the safety and well-being of the children in the family. Appropriate action will include at least one home visit with the children by a nurse, medical social worker, or other health professional within 30 days of the termination. When appropriate, the Department of Health will

(Rule 1240-1-49-.06, continued)

make a referral to the Department of Children's Services (DCS). The DHS may provide temporary financial assistance if the Department of Health, with the concurrence of the DHS and the DCS, certifies that such assistance is needed to prevent a child's loss of housing, heat, light, or water, or to prevent removal of a child from the custody of his or her parent.

Authority: T.C.A. §§4-5-201 et seq., 4-5-202, 71-1-105, 71-1-105(12), 71-3-151 through 71-3-165, 71-3-154(a), (d), (g) and(h), 71-3-157(c)(1) and (f), 42 U.S.C.A. § 1315; Federal Waiver of July 26, 1996, 42 USC §1315(a), Acts of 1996, Chapter 950, and §1115 of the Social Security Act. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997. Amendment filed July 5, 2002; effective September 18, 2002. Amendment filed December 13, 2002; effective February 26, 2003.

1240-1-49-.07 STRIKERS.

(1) Definitions.

- (a) The term "strike" includes any strike or other concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective bargaining agreement) and any concerted shutdown or other concerted interruption of operation by employees.
- (b) The term "participating in a strike" means an actual refusal in concert with others to provide services to one's employers.

(2) Eligibility Factors.

- (a) If a parent with whom the children live is participating in a strike, the entire assistance group is ineligible for as long as the parent is on strike. The parent does not have to be a member of the assistance group to cause ineligibility.
- (b) If an assistance group member other than a parent is participating in a strike, that individual is ineligible for assistance as long as she/he is on strike.
- (c) If a payment of Families First benefits has already been made for any month(s) in which a parent or other assistance group member participated in a strike as of the last day of the month, the payment (or the individual's share) for the entire month constitutes an overpayment subject to recovery.

Authority: T.C.A. §§4-5-201 et seq., 71-1-105, Public Acts of 1996, Chapter 950, and 45 CFR 233.106. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997.

1240-1-49-.08 DEPARTMENT OF HEALTH VISITS.

(1) Whenever the Families First cash payment is terminated for any reason other than on the basis of:

- (a) income;
- (b) resources;
- (c) there are no children within the age limits for a dependent child in the home;
- (d) the caretaker has moved out of Tennessee, or;
- (e) the caretaker has requested closure.

the Department of Human Services (DHS) will notify the Department of Health (DOH).

(Rule 1240-1-49-.08, continued)

- (2) The Department of Health will immediately take appropriate action to monitor and protect the safety and well being of the children in the family. Appropriate action will include at least one home visit with the children, by a nurse, medical social worker or other health professional within thirty (30) days of the termination of cash assistance. When appropriate, the Department of Health will make a referral to the Department of Children's Services (DCS).
- (3) If DCS determines that temporary financial assistance will prevent the removal of a child from the custody of his or her parent, DCS will notify DHS directly or notify the Department of Health which will in turn notify DHS.
- (4) The Department of Human Services may provide temporary financial assistance to such families if such assistance is needed to prevent a child's loss of housing, heat, light or water or removal from the home by DCS.
- (5) To receive temporary financial assistance:
 - (a) an eligible child who was in the closed Families First case must be in the home;
 - (b) the family must meet the Consolidated Need Standard income test for Families First cash assistance; and
 - (c) the family must meet the resource limits for Families First cash assistance.
- (6) The issuance of temporary financial assistance:
 - (a) in the form of cash payments to the assistance group will be limited to three (3) payments within a year.
 - (b) Any additional temporary financial assistance provided to the assistance group during this period will be made in the form of vendor payments to the utility or housing provider, unless the reason for the temporary financial assistance is related to lack of food or the Department determines that the assistance group's circumstances warrant a cash payment. The family must also accept a referral to and fully comply with the terms of a Department-approved counseling program that addresses barriers to self-sufficiency within thirty (30) days of the initial vendor payment.
 - (c) If the closure was due to the family reaching the sixty (60)-month time limit, the temporary financial assistance in the form of cash payments to the assistance group will be limited to three (3) cash payments in a one year period. Any additional temporary assistance payments to the assistance group during this period will be made in the form of vendor payments to the utility or housing provider unless the reason for the temporary financial assistance is related to lack of food or the Department determines that the assistance group's circumstances warrant a cash payment. Temporary financial assistance may be provided for any month in which the family meets the criteria in section 1240-1-49-.08(5). The assistance group will be required to accept and comply with the terms of a Department-approved counseling program that addresses barriers to self-sufficiency or provides employment services within thirty (30) days of the initial vendor payment.

Authority: T.C.A. §§4-5-202, 71-1-105(12), 71-3-151 through 71-3-165, 71-3-154(d)(1)(B) and (C), 71-3-155; 71-3-157(c)(1), and 42 U.S.C.A. § 1315; Federal Waiver of July 26, 1996. **Administrative History:** Original rule filed December 13, 2002; effective February 26, 2003.